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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/659,502	09/11/00	NASSIF	M 497.001US1

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MARK A LITMAN & ASSOCIATES P A
YORK BUSINESS CENTER
SUITE 205
3209 WEST 76TH STREET
EDINA MN 55435

EXAMINER	
WELLS, I	
ART UNIT	PAPER NUMBER
1619	4

DATE MAILED: 08/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/659,502	NASSIF ET AL.	
	Examiner	Art Unit	
	Lauren Q Wells	1619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-25 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15)☒ Notice of References Cited (PTO-892)
16)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .
18)☐ Interview Summary (PTO-413) Paper No(s). _____ .
19)☐ Notice of Informal Patent Application (PTO-152)
20)☐ Other:

DETAILED ACTION

Priority

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1-25 of this application. The claims of the instant invention are directed to method for providing aromatherapy to persons within an ambient environment. The claims of Provisional Application No. 60,152,210 are directed to a planetary type transmission. These claims are in no way related to one another. Thus, this application is not granted a priority date. The actual and effective filing date of this application is September 11, 2000.

Claim Objections

Applicant is advised that should claim 9 be found allowable, claims 11, 12, 19 and 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-13 and 25 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Petuli oil is not described in the specification, it is not defined in science dictionaries and regular dictionaries, and the term "petuli" is not found in any US patents, prepublications, or Derwent abstracts.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 9-13, 21-22, 24-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(i) The phrase "ambient environment" in claim 1 (lines 1, 5-7) and claim 21 (line 1) is vague and indefinite, as it is not clear what type of environment this phrase encompasses. The phrase is not defined in the specification and one of ordinary skill in the art would not be appraised of it.

(ii) The phrase "to effect a household function" in claim 1 (line 2-3) and claims 21 (line 3) and 22 (lines 4-5) is vague and indefinite, as it is not clear what this phrase encompasses. The phrase is not defined in the specification and one of ordinary skill in the art would not be appraised of it.

(iii) The phrase "an aromatherapeutic concentration" in claim 1 (line 3-4) is vague and indefinite, as it is not clear quantitatively what this phrase encompasses.

(iv) The phrase "completing the household function" in claim 1 (lines 4-5) is vague and indefinite, as it is not clear what this phrase encompasses. Does it mean removing all the dust or

removing all the grim or removing bacteria, or does it mean mopping or sweeping, or does it mean something else?

(v) The phrase "allowing the aromatherapeutic essential oil to remain within the ambient environment to effect aromatherapy of persons or animals" in claim 1 (lines 5-6) and the phrase "for effecting aromatherapy to an ambient environment" in claims 21 (line 1) and 22 (lines 1-2) is vague and indefinite. First, how do you allow something to remain within an environment. Do you keep it in a seal container? Do you make sure the environment is sealed? Second, how do you effect aromatherapy on persons or animals? Do you place their noses near the source of the aromatherapy? Do you let the scent travel to them?

(vi) The phrase "composite cleaning" in claim 3 (line 3) is vague and indefinite, as it is not clear what type of cleaning this phrase encompasses. The specification does not define this term and one of ordinary skill in the art would not be appraised of it.

(v) The phrase "sandalwood oil" in claims 9-13 is vague and indefinite, as it is not clear why the phrase is listed two times.

(vi) The phrase "citrus/mint oil combinations" in claims 9-13 and the phrase "citrus mint" in claim 24 (lines 1-2) is vague and indefinite, as it is not clear what this phrase means? Is there a citrus-mint oil product? Does it mean half citrus oil and half mint oil? Does it mean a drop of citrus oil and the rest mint oil?

(vii) The phrase "the essential oil in each household product within the kit comprising at least one identical essential oil" in claim 22 (lines 6-7) is vague and indefinite, as it is not clear what this phrase means.

(viii) The phrase "petuli oil" in claim 25 (lines 1-2) is vague and indefinite, as it is not clear what this oil is. This oil is not defined in the specification and one of ordinary skill in the art would not be appraised of it.

(ix) Claims 3, 21, and 22 are rejected for the use of improper Markush groups. See MPEP 2173.05(h) for examples of proper conventional or alternative Markush-type language (e.g., ". . .selected from the group consisting of. . .and . . .").

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-21, rejected under 35 U.S.C. 102(e) as being anticipated by Cheung et al. (6,177,388).

Cheung et al. teach botanical oils in hard surface cleaning compositions. Disclosed is a composition comprising botanical oils (referred to as essential oils in the instant invention) and alcohol, wherein the botanical oils comprise 0.001-20% of the composition. Botanical oils disclosed include camphor oil, citronella oil, clove leaf oil, eucalyptus oil, lavender oil, lemon oil, nutmeg oil, sandalwood oil, peppermint oil, bergamot oil, and sage oil. Thus, both Applicant and Cheung et al. disclose liquid cleaning compositions that are applied to hard surfaces, wherein the composition comprises aromatherapeutic essential oils and wherein aromatherapy is provided

to persons within the ambient environment of the cleaned hard surface. See Col. 1, line 5-Col. 3, line 64; Col. 11, line 17-Col. 16, line 48.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferguson et al. (6,045,813).

Ferguson et al. teach lotions and gels with active ingredients in beads. The composition is disclosed for use as a skin care product and a household cleanser. The composition is disclosed as comprising essential oils or antibacterial agents as active ingredients and alcohol, wherein the essential oils comprise 0.5-3% of the composition and chamomille extract is disclosed as an essential oil. Thus, both Applicant and Ferguson et al. disclose liquid cleaning compositions that are applied to hard surfaces, wherein the composition comprises aromatherapeutic essential oils and wherein aromatherapy is provided to persons within the ambient environment of the cleaned hard surface. See Col. 1, line 5-Col. 2, line 65; Col. 8, line 57-Col. 12, line 64.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung et al. and Ferguson et al. in view of Bonett (6,127,330) in further view of Orson (5,081,104) and Bajgrowicz (6,239,314).

Cheung et al. and Ferguson et al. fail to teach kits, mint oil, citrus oil, and ylang ylang oil (see above discussion).

Bonett teaches compositions and processes for bleaching surfaces. It is disclosed that the composition of the invention can be stored in any appropriate containers known in the art, such as two-compartment kits. See abstract; Col. 1, line 10-Col. 2, line 14; Col. 3, line 15-Col. 4, line 8.

Orson teaches a fragrance dispensing composition. Disclosed is a composition wherein the fragrance can be chosen from mint and citrus oil. It is disclosed that this composition can be used as a combination hard surface cleaning and air freshening product. See Col. 2, line 55-Col. 8, line 42.

Bajgrowicz et al. teach odorants. It is disclosed that the compounds of the invention can be combined with lavender oil, rose oil, ylang ylang oil, and alcohols, and that the composition can be formulated as toilet water, scented water, perfume, or household cleaner. See Col. 6, line 1-Col. 7, line 40.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Cheung et al. or Ferguson et al. by adding the kit of Bonett and obtain a kit comprising different household products for effecting aromatherapy because a) Cheung et al., Ferguson et al., and Bonett all teach household cleaning compositions for use on hard surfaces; b) Bonett teaches that conventional additives, such as fragrances, can be

added to his composition; c) Bonett teaches that storing cleansing compositions in containers, such as kits, is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of the combined references by adding the citrus and mint oil of Orson or the ylang ylang oil of Bajgrowicz et al. and obtain a composition comprising citrus and mint oil or a composition comprising ylang ylang oil because a) Cheung et al., Ferguson et al., Orson, and Bajgrowicz et al. all teach fragrant cleansing compositions; b) Bajgrowicz et al. teach lavender oil, rose, oil or ylang ylang oil for use in his composition and Cheung et al. teach lavender oil as one of the botanical oils; c) Orson teaches citrus oil and mint oil for use in his composition, and Cheung et al. teach peppermint oil and orange oil as one of the botanical oils.

The claimed subject matter fails to patentably distinguish over the state of the art as represented by the cited references. Therefore, the claims are properly rejected under 35 U.S.C. § 103.

Prior Art

The prior art made of record and not specifically relied upon in any rejections cited above is either 1) considered cumulative to the prior art that was cited in a rejection or is 2) considered pertinent to the applicant's disclosure and shows the state of the art in its field but is not determined by the Examiner to read upon the invention currently being prosecuted in this application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana L Dudash can be reached on (703) 308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw
August 15, 2001

DAMERON L. JONES
PRIMARY EXAMINER